

**State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of February 12, 2013**

BOARD MEMBERS PRESENT

Gary R. Hatfield, M.D, Chairman
Maroulla Gleaton, M.D., Board Secretary
David R. Andrews, M.D.
Louisa Barnhart, M.D.
Cheryl Clukey
David H. Dumont, M.D
David D. Jones, M.D.
David Nyberg, Ph.D.

BOARD STAFF PRESENT

Randal C. Manning, Executive Director
Mark C. Cooper, M.D., Medical Director
Jean M. Greenwood, Administrative Assistant
Dan Sprague, Assistant Executive Director
Tim Terranova, Consumer Assistant

ATTORNEY GENERAL'S OFFICE

Dennis Smith, Assistant Attorney General
Detective James Gioia

Mr. Dyer was excused.

The Board meets in public session with the exception of the times listed below, which are held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405) and 10 M.R.S.A. §8003-B, and 22 M.R.S. § 1711-C). The Board moved, seconded, and voted the following executive session times. During the public session of the meeting, actions are taken on all matters discussed during executive session. Discussions are projected on a screen by PowerPoint projection.

PUBLIC SESSIONS

9:06 a.m. – 9:08 a.m.

10:49 a.m. – 11:04 a.m.

1:20 p.m. – 5:00 p.m.

EXECUTIVE SESSION

9:08 a.m. – 10:49 a.m.

11:04 a.m. – 1:20 p.m.

PURPOSE

Call to Order

Recess

Public Session

Review Complaints

Informal Conference

I. Call to Order

Dr. Hatfield called the meeting to order at 9:08 a.m.

A. Amendments to Agenda

1. Kathleen C. Lees, P.A.-C. (Consent Agreement)
2. Kevin Kendall, M.D. (Consent Agreement)

B. Scheduled Agenda Items

1. 11:00 a.m. CR 12-63 - Informal Conference

II. Complaints

I. Letters of Guidance

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A. Administration, Policy & Rules Committee

1. Financial Report (FYI)

B. Legislative & Regulatory Committee reviewed current proposed legislation of interest to the Board.

C Public Information Committee

Ms. Clukey reported the spring newsletter would be out on time.

XIV. Board Correspondence (None)

XV. FYI13

XVI. FSMB Material (None)13

XVII. Other Business (None)

XVIII. Adjournment 5:00 p.m.13

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2. Kevin Kendall, M.D. (Consent Agreement)

B. Scheduled Agenda Items

1. 11:00 a.m. CR 12-63 - Informal Conference

II. Complaints

I. Letters of Guidance

a. CR12-114 Ratul Raychaudhuri, M.D.

Dr. Andrews moved to approve the letter of guidance to Ratul Raychaudhuri, M.D. Dr. Jones seconded the motion, which passed 7-0-1-0 with Dr. Dumont abstaining.

b. CR12-165 Nancy Egan, M.D.

Dr. Andrews moved to approve the letter of guidance to Nancy Egan, M.D. Dr. Gleaton seconded the motion, which passed 7-0-0-1 with Dr. Nyberg recused.

c. CR12-169 Samuel S. Scott, M.D.

Dr. Hatfield moved to approve the letter of guidance to CR12-169 Samuel S. Scott, M.D. Dr. Dumont seconded the motion, which passed 7-0-0-1 with Dr. Andrews recused.

2. CR12-184

Dr. Gleaton moved to dismiss CR12-184. Dr. Jones seconded the motion, which passed unanimously.

A patient complained that a consulting physician acted unprofessionally with a lack of integrity and compassion. Review of the records indicates a patient with complex medical issues involving chronic pain, which can be difficult to treat and live with on a daily basis; however, the patient received appropriate medical care by her providers. Unfortunately, the patient did not feel that the consultant examination was performed gently, compassionately, or competently and that she was made worse by the visit. There is no evidence of unprofessional or incompetent behavior or care even if the patient felt a lack of positive, effective, mutual communication and rapport. The physician responded that she appreciates the importance of patient-centered care, and has taken steps in her practice to improve physician-patient communication.

3. CR12-198

Dr. Jones moved to dismiss CR12-198. Dr. Gleaton seconded the motion, which passed 7-1-0-0.

The complainant alleges the physician misinterpreted an imaging study, thus delaying the diagnosis of a chronic terminal condition for a patient and her family. The physician stated he could see the abnormality in retrospect, but avers he still might miss the abnormality if he reread the image without benefit of the subsequent scan. The complainant is concerned that the physician is practicing beyond his scope of practice. After review, the Board does not find that the physician is practicing beyond his scope of practice. The physician notes that he is sorry for the patient and her family.

4. CR12-208

Dr. Hatfield moved to dismiss CR12-208. Dr. Jones seconded the motion, which passed 5-0-0-3 with Dr. Gleaton, Dr. Barnhart, and Ms. Clukey recused.

The patient complains the physician lied to him when she failed to prescribe narcotics for his pain condition, as he believes she had promised. The physician replies by describing her treatment of the patient since 2007. She denies promising him narcotics; instead, she worked to get him into a suboxone program and recommended alternative therapies. The patient became angry with this approach. Medical record review shows the patient received appropriate care.

5. CR12-168

Dr. Barnhart moved to dismiss CR12-168. Dr. Andrews seconded the motion, which passed unanimously.

A patient complained that the physician "turned his back" after successfully working with the patient. The patient was weaned off medications, which he perceived as essential to successful functioning. The patient stated he has submitted requests to discuss this with the doctor, but has been told to make use of other adjunctive clinicians.

The physician replies the patient was told of the change in prescription practice with a year's notice. The patient declined all alternatives that were explained in several discussions. The physician continues to work with the patient despite this disagreement.

The records reviewed show the care provided was appropriate and the change in care was appropriately discussed with the patient.

6. CR12-205

Dr. Dumont moved to investigate further CR12-205. Dr. Jones seconded the motion, which passed 7-0-0-1 with Dr. Hatfield recused.

7. CR12-212

Dr. Andrews moved to investigate further CR12-212. Dr. Dumont seconded the motion, which passed unanimously.

8. CR12-219

Ms. Clukey moved to dismiss CR12-219. Dr. Jones seconded the motion, which passed unanimously.

This case was initiated by the Board after reading a July, 2012 media report of allegations that the physician was involved in domestic violence and criminal threats. The physician

responds in specific detail to all aspects of the allegations. On October 12, 2012, all charges were dismissed.

9. CR12-201

Dr. Andrews moved to investigate further CR12-201. Dr. Gleaton seconded the motion, which passed unanimously.

10. CR12-203

Dr. Dumont moved to investigate further CR12-203. Dr. Gleaton seconded the motion, which passed 7-0-0-1 with Dr. Barnhart recused.

11. CR12-99

Dr. Barnhart moved to investigate further CR12-99. Dr. Jones seconded the motion, which passed 7-0-0-1 with Dr. Hatfield recused.

12. CR12-100

Dr. Barnhart moved to table CR12-100. Dr. Jones seconded the motion, which passed 7-0-0-1 with Dr. Hatfield recused.

13. CR12-101

Dr. Andrews moved to hold an Informal Conference in the matter of CR12-101. Dr. Gleaton seconded the motion, which passed unanimously.

14. CR12-51

Ms. Clukey moved to hold an Informal Conference in the matter of CR12-51. Dr. Jones seconded the motion, which passed unanimously.

15. CR12-144

Ms. Clukey moved to dismiss CR12-144. Dr. Dumont seconded the motion, which passed 7-0-0-1 with Dr. Andrews recused.

The patient complains that the physician acted unprofessionally during her first visit. The patient was referred by her primary physician for a second opinion. The complainant states that after a medical history was completed, the physician began educating the patient with a textbook and several files of digital photographs. He went on to explain the Latin pronunciations of the medical terms and their Latin origin. The patient was very uncomfortable with this procedure and was confused as to why she was being exposed to these explicit medical photos for so long. The physician responds that he had no indication of the patient's discomfort. He feels it is important to treat the whole person and to explain

and choose the right medical treatment. The physician prides himself with his ability for thorough communication with his patients and states he is dismayed that the patient did not feel he communicated well with her.

16. CR12-177 Deep S. Acharya, M.D.

Dr. Jones moved to order an Adjudicatory Hearing in the matter of Deep S. Acharya, M.D. and to instruct AAG Smith to seek a Consent Agreement. Dr. Gleaton seconded the motion, which passed 7-0-0-1 with Dr. Dumont recused.

17. CR12-189

Dr. Gleaton moved to dismiss CR 12-189. Dr. Dumont seconded the motion, which passed unanimously.

In this case, the patient complains the physician prescribed a medication that agitated his stomach and made bowel movements difficult. As a result, he injured his lower intestinal tract while straining. The physician reports he had only one visit with the patient. He states the patient was on the medication for two months prior to the visit when he reported his condition had improved. The patient did not provide the Board with authorization to obtain his medical records.

18. CR12-211

Dr. Jones moved to investigate further CR12-211. Dr. Andrews seconded the motion, which passed unanimously.

19. CR12-215

Dr. Nyberg moved to dismiss CR12-215. Dr. Gleaton seconded the motion, which passed 7-0-0-1 with Dr. Andrews recused.

The gist of this complaint is the physician's manner in describing the patient's medical condition and in expressing his disagreement with other, previous providers' diagnosis. This type of complaint is familiar to the Board and some cases are serious enough to require further action. In this case, it appears that the miscommunication was unintentional and the unpleasant consequences for the patient were surprising to the physician when he first read about them in the complaint. The Board recognizes that not all physicians have equally refined skills in personal interactions as well as the more technical aspects of providing medical care. The care provided in this case is not in question, and the personal discord, while unfortunate, was relatively minor.

20. CR12-224

Dr. Hatfield moved to dismiss CR 12-224. Dr. Gleaton seconded the motion, which passed unanimously.

The complainant states that the patient did not receive proper medical care, and was interviewed in a public area by the physician. Examination of the medical record demonstrates this physician provided appropriate treatment and met the required standard of care.

21. CR12-228

Dr. Gleaton moved to dismiss CR12-228. Dr. Dumont seconded the motion, which passed unanimously.

The patient alleges the physician behaved in a vulgar and unprofessional manner during an appointment for an eye exam in October, 2010. The allegation itself is quite vulgar, and there is no evidence whatsoever that the physician acted in an untoward manner.

22. CR12-236

Dr. Barnhart moved to investigate further CR12-236. Dr. Nyberg seconded the motion, which passed 5-2-0-1 with Dr. Hatfield recused.

23. CR12-172

Dr. Dumont moved to table CR12-172. Dr. Gleaton seconded the motion, which passed 7-0-0-1 with Dr. Andrews recused.

III. Assessment & Direction (None)

24. Intentionally Left Blank

25. Intentionally Left Blank

26. Intentionally Left Blank

27. Complaint Status Report (FYI)

28. Consumer Assistant Feedback (FYI)

29. Physician Feedback (FYI)

IV. Informal Conference 11:00 A.M.

A. CR12-63 Stephen H. Nightingale, M.D.

Ms. Clukey moved to order an Adjudicatory Hearing and to instruct AAG Smith to seek a Consent Agreement. Dr. Andrews seconded the motion, which passed 6-2.

Noon Recess

Public Session

V. Minutes of January 8, 2013

Dr. Dumont moved to approve the minutes of January 8, 2013 as amended. Ms. Clukey seconded the motion, which passed unanimously.

VI. Board Orders & Consent Agreement Monitoring & Approval

A. Board Orders (None)

B. Consent Agreement Monitoring and Approval

1. Christine M. Mellon, M.D. [See Appendix A Attached]

Dr. Dumont moved to approve the Consent Agreement and the Medical Professionals Health Program's (MPHP) Monitoring Contract in the matter of Christine M. Mellon, M.D. Dr. Jones seconded the motion, which passed unanimously.

2. Florello S.E. Quianzon, M.D. [See Appendix B Attached]

Dr. Jones moved to approve the Consent Agreement in the matter of Florello S.E. Quianzon, M.D. Dr. Gleaton seconded the motion, which passed unanimously.

3. Alexandria Nesbit, P.A.-C.

Ms. Clukey moved to approve the following monitors for Ms. Nesbit: Ormond Lee Haynes, Jr., M.D. for Mondays and Tuesdays, and Meryl Nass, M.D. for Wednesdays and Thursdays. Dr. Andrews seconded the motion, which passed unanimously.

4. Kathleen C. Lees, P.A.-C. [See Appendix C Attached]

Dr. Jones moved to approve the Consent Agreement in the matter of Kathleen C. Lees, PA-C. Dr. Gleaton seconded the motion, which passed unanimously.

5. Kevin Kendall, M.D. [See Appendix D Attached]

Dr. Nyberg moved to approve the Consent Agreement and the Medical Professionals Health Program's (MPHP) Monitoring Contract in the matter of Kevin Kendall, M.D. The treatment plan will be amended to state he will attend Caduceus meetings one time per week. Dr. Dumont seconded the motion, which passed 7-0-0-1 with Dr. Hatfield recused.

VII. Adjudicatory Hearing (None)

VIII. Remarks of Chairman

A. Adoption of Ch. 2 Physician Assistant Rules

Dr. Jones moved to approve final adoption of the Chapter 2 Physician Assistant Rules. Dr. Gleaton seconded the motion, which passed unanimously.

IX. Executive Director's Monthly Report

The Board accepted the Report of the Executive Director.

A. Complaint Status Report (FYI)

B. Policy Review State Exam Process

Dr. Jones moved to reaffirm the Board's State Exam Process Policy. Dr. Dumont seconded the motion, which passed unanimously.

C. Proposed Revision of Board Secretarial Duties Policy

Dr. Dumont moved to approve the proposed revisions to the Board Secretarial Duties Policy. Dr. Jones seconded the motion, which passed unanimously.

D. FSMB Annual Meeting April 18 – 20, 2013

Dr. Nyberg moved to authorize submitting approval for Dr. Jones, Dr. Dumont, Dr. Hatfield, Dr. Gleaton, and Ms. Clukey to attend the Federation of State Medical Boards Annual Meeting in Boston April 19-20, 2013. Ms. Clukey seconded the motion, which passed unanimously.

E. Board Member University (FYI)

X. Medical Director's Report (None)

XI. Remarks of Assistant Attorney General (None)

XII Secretary's Report

A. List A

1. M.D. List A Licenses for Ratification

Dr. Dumont moved to ratify the Physicians on List A for licensure. Dr. Andrews seconded the motion, which passed unanimously.

The following Physician license applications have been approved by staff and Board Secretary Maroulla Gleaton, M.D. without reservation:

NAME	SPECIALTY	LOCATION
Basata, Samir	Urology	Presque Isle
Bryne, Christopher H.	Vascular Surgery	Bangor
Catic, Angela G.	Internal Medicine	Telemedicine
Conlon, Laura W	Emergency Medicine	Bar Harbor
Deak, Tera M.	Emergency Medicine	Not Listed
Dolgin, Rebecca L.	Psychiatry	Not Listed
Elendu, Sebastine L.	Critical Care	Lewiston
Farooq, Shiraz	Surgeon	Lewiston
Gentry, Jason K.	OB/GYN	Lewiston
George, Dena L.	Family Medicine	Lewiston
Glasser, James G.	Pediatric Surgeon	Bangor
Goyal, Sameer K.	Diagnostic Radiology	Ellsworth
Higginbotham, Rachel	Sleep Medicine	Portland
Joshi, Nirav	Cardiology	Bangor
Keefe, Patricia A.	Surgery	Brunswick
Kim, Howard L.	Psychiatry	Telemedicine
Kurta, Jordan M.	Surgery	Lewiston
Lord, Charles E.	Anesthesiology	Portland
Lum, Donald L.	Family Practice	Calais
Luna, Thomas D.F.	Preventative Medicine	Portland
Maggie, Vijay	Psychiatry	Telemedicine
Malone, Gregory	Anesthesiology	Portland
Malya, Rohith R.	Emergency Medicine	Rockport
Mattison, Melissa	Internal Medicine	Falmouth
Mayhorn, Ronald E.	Anesthesiology	Portland
Nieroda, Carola A.	Surgery	Caribou
Rand, William C.	Orthopedic Surgeon	Fort Kent
Rivera-/Rios, Marilia	Emergency Medicine	Presque Isle
Siddiqui, Perveza A.	Diagnostic Radiology	Ellsworth
Stopak, Samuels	Ophthalmology	Bangor
Verma, Varun K.	Internal Medicine	Farmington
Zak, Steven M.	Psychiatry	Telemedicine

2. P.A. List A Licenses for Ratification

Dr. Jones moved to ratify the Physician Assistants on List A for licensure. Dr. Barnhart seconded the motion, which passed unanimously.

The following Physician Assistant license applications have been approved by the Board Secretary, Maroulla Gleaton, M.D. without reservations:

NAME	LICENSE	PSP	LOCATION
Zachary Greenier, P.A.-C	Active	Nancy O'Neill, M.D.	Brewer
Emily Hinman, P.A.-C	Active	John T. Chance, M.D.	Portland

Charles Roberts, P.A.-C Active
Victoria Simpson, P.A.-C Active

Christopher Ritter, M.D. Old Town
Brett Rankin, M.D. Kittery

B. List B Applications for Individual Consideration

1. William W. Southmayd, M.D. - Tabled
2. Sureshan Sivananthan, M.D.

The Licensure Committee moved to approve the license application of Sureshan Sivananthan, M.D. The motion passed unanimously.

C. List C Applications for Reinstatement

1. List C Applications for Reinstatement

Dr. Jones moved to ratify the Board Secretary's approval of List C for reinstatement. Ms. Clukey seconded the motion, which passed unanimously.

The following license reinstatement applications have been approved by staff and Board Secretary Maroulla Gleaton, M.D. without reservation:

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Langweiler, Clifford B.	Family Practice	Belfast
Skaf, Robert A.	Endocrinology	Not Listed
Zapolsky, Valerie A.	Pediatrics	Rangeley

2. List C Applications for Reinstatement for Individual Consideration

- a. Arvind S. Garewal, M.D.

The Licensure Committee moved to table Dr. Garewal's application for reinstatement pending receipt of requested information and to authorize the Board Secretary to allow reinstatement when the information is received as long as it is deemed satisfactory. The motion passed unanimously.

D. List D Withdrawals

1. List D (1) Withdraw License Application (None)
2. List D (2) Withdraw License from Registration

Dr. Jones moved to allow the licensees on List D (2) to withdraw their licenses from registration. Ms. Clukey seconded the motion, which passed unanimously.

The following Physicians and Physician Assistants have applied to withdraw their licenses from registration.

<u>NAME</u>	<u>LICENSE NO.</u>
Black, Daniel	MD13653
Bress, Norman	MD6166
Chowdhury, A.K.M. Mehdi	MD15165
Garcia, Nicholas	MD16458
Park, Eil B.	MD13746
Sharkey, Marie	MD15586
Singh, Loveena	MD18618

3. List D (3) Withdraw License from Registration - Individual Consideration

a. Siren Chudgar, M.D.

The Licensure Committee moved to allow Dr. Chudgar to withdraw his license from registration. The motion passed unanimously.

E. List E - Licenses to lapse by operation of law (FYI)

The following physician and physician assistant licenses lapsed by operation of law effective February 11, 2012.

<u>NAME</u>	<u>LICENSE NO.</u>
Abramson, Richard	MD17938
Arshad, Ahmed	MD18601
Barral, Myrlinda	MD10524
Clark, Christopher	MD11703
Dardick, Kenneth	MD16140
Focht, Glenn David	MD18536
Gagnon, David	MD12177
Garrett, Valerie	MD18511
Gupta, Neera	MD17557
Guptan, Amrit	MD17631
Hanf, Thomas	MD16104
Haughwout, Peter	MD8279
Homann, Juergen	MD7295
Janes, Kenneth	MD12011
Latowsky, Brenda	MD17902
Lau, Mark	MD16698
Lawson, George	MD7074
Lee, John	MD17014
Mearns, Robert	AL91005
Mijalli, Ayman	MD16783
Miller, Jeffrey	MD13723

Mudge, Gilbert	MD16353
Patel, Pravin	MD15852
Pineda, Tiffany	MD18662
Rajani, Ratan	MD9986
Read-Smith, Samantha	MD16368
Shah, Animesh	MD18835
Spragins, Joel	MD18042
Stamford, William	MD7437
Tangney, Patrick	MD13411
Yau, Kin Lui	MD7997

F. List F - Licensees requesting to convert to active status (None)

G. List G - Renewal Applications for Review

1. Anthony Sintetos, M.D.

The Licensure Committee moved to approve renewal of Dr. Sintetos' license. The motion passed unanimously.

H. List H - Physician Assistant Requests for Schedule II Authority

1. Applications to Renew Schedule II Authority (None)
2. Applications for New Schedule II Authority

Dr. Jones moved to ratify the Physician Assistants on List H (2) for Schedule II Authority. Dr. Barnhart seconded the motion, which passed unanimously.

The following new requests for Schedule II prescribing authority have been approved by Board Secretary Maroulla Gleaton, M.D.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
James Caddell, P.A.-C.	Stephen Walsh, M.D.	Bangor
Victoria Simpson, P.A.-C	Brett Rankin, M.D.	Kittery

XIII. Standing Committee Reports

A. Administration, Policy & Rules Committee

1. Financial Report (FYI)

B. Legislative & Regulatory Committee reviewed current proposed legislation of interest to the Board.

C Public Information Committee

Ms. Clukey reported the spring newsletter would be out on time.

XIV. Board Correspondence (None)

XV. FYI

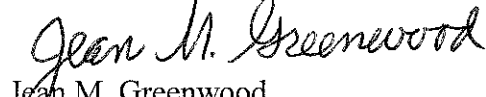
XVI. FSMB Material (None)

XVII. Other Business (None)

XVIII. Adjournment 5:00 p.m.

Dr. Dumont moved to adjourn. Dr. Andrews seconded the motion which passed unanimously.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jean M. Greenwood".

Jean M. Greenwood
Administrative Assistant
Board Coordinator

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

<u>In re:</u>)	CONSENT AGREEMENT FOR
Christine M. Mellon, M.D.)	CONDITIONAL LICENSURE
Application for Medical Licensure)	
)	

INTRODUCTION

This document is a Consent Agreement For Conditional Licensure, which grants a conditional license to practice medicine in the State of Maine to Christine M. Mellon, M.D. The parties to this Consent Agreement For Conditional Licensure are: Christine M. Mellon, M.D. ("Dr. Mellon"), the State of Maine Board of Licensure in Medicine ("the Board"), and the Office of the Attorney General ("the Attorney General"). This Consent Agreement is entered into pursuant to 32 M.R.S.A. § 1077 and 10 M.R.S.A. § 8003(5).

FACTS

1. The Board received an application from Dr. Mellon for a permanent Maine medical license on April 10, 2012. Dr. Mellon specializes in OB/GYN.
2. On her application for licensure, Dr. Mellon indicated that within the past five (5) years she had been dependent upon alcohol or undergone treatment for such dependence. The Board subsequently received information from the Maine Medical Professionals Health Program (MPHP) that Dr. Mellon had entered into a monitoring contract with the MPHP.
3. On November 13, 2012, the Board reviewed Dr. Mellon's application, which included information that she had not been actively practicing medicine since 2009 as well as a recent psychological evaluation. Following its review, the Board voted to grant Dr. Mellon a Maine medical license subject to conditions.

4. Pursuant to Title 32 Chapter 48 the Legislature endowed the Board with the power and duty to regulate the practice of physicians and physician assistants licensed by the Board, including setting standards of practice and investigating complaints. Pursuant to 10 M.R.S. § 8008 the Legislature provided that the sole purpose of the Board is to "protect the public health and welfare" and that "other goals or objectives may not supersede this purpose."

5. In light of Dr. Mellon's prior conduct and the documentation of her efforts at rehabilitation and abstinence, and in light of the Board's duty to protect the public, the parties agree to enter in to this Consent Agreement For Conditional Licensure pursuant to the terms and conditions identified below.

COVENANTS

6. The Board agrees to issue and Dr. Mellon agrees to accept a Maine medical license pursuant to this Consent Agreement for Conditional Licensure, which shall become effective upon the execution¹ of this document. Until this Consent Agreement is modified or rescinded in writing by all of the parties hereto, Dr. Mellon's license to practice as a physician shall be subject to the following conditions:

a. Abstinence. Dr. Mellon shall totally refrain from the use or possession of any and all Prohibited Substances except drugs that are dispensed or prescribed by a single primary care physician or drugs that are dispensed or prescribed under circumstances that constitute a genuine medical or surgical emergency. "Prohibited Substances" as used throughout this Consent Agreement shall mean all controlled substances (i.e. benzodiazepines; sedatives; hypnotics or similar drugs; opiates; cocaine), alcohol, and all mood and/or consciousness or mind-altering substances, whether illicit or not. In the event that the Board or Board staff receives a report of use or possession of any Prohibited Substance by Dr. Mellon, it shall result in the immediate suspension of her Maine medical license, which shall continue to be suspended until the Board holds a hearing on the matter.

¹ The term "execution" means the date on which the final signature is affixed to this Consent Agreement.

b. Enrollment and Successful Participation in the Maine Medical Professionals Health Program. Dr. Mellon shall enroll in and fully and successfully participate in the Maine Medical Professionals Health Program (MPHP) pursuant to a written contract approved by the Board. **No later than January 18, 2013**, Dr. Mellon shall provide the Board with documentation of her enrollment in and successful participation in the MPHP. Dr. Mellon understands and agrees that her written contract with the MPHP must be approved by the Board, and that any changes to her written contract with the MPHP must be approved by the Board. In complying with this provision, Dr. Mellon specifically and explicitly waives vis a vis the Board, the Board staff, and the Department of Attorney General any claims of confidentiality regarding: (i) the written contract with the MPHP; (ii) any and all records pertaining to her compliance with her contract with the MPHP; and (iii) any records, including but not limited to substance abuse treatment records and laboratory reports, in the possession of the MPHP regarding Dr. Mellon. The MPHP contract must include a condition that Dr. Mellon submit to testing or monitoring for the presence of any Prohibited Substances as defined under this Consent Agreement. In complying with this testing or monitoring provision, Dr. Mellon agrees to the following:

(i) Immediate, Indefinite, Automatic Suspension for Failure

To Successfully Participate in the MPHP. Dr. Mellon's failure to enroll in and/or successfully participate in the MPHP shall result in the immediate, indefinite, automatic suspension of her Maine medical license, which shall continue until the Board holds a hearing on the matter. At hearing, the Board shall make a determination about whether or not Dr. Mellon has enrolled and successfully participated in the MPHP. The suspension shall become effective at the time that Dr. Mellon receives actual notice from the Board that a report of violation(s) has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means.

(ii) Testing/Monitoring. Dr. Mellon shall undergo such testing of the type (including but not limited to urine, blood, hair or fingernail analysis) as determined by the MPHP² and as frequently and for the duration agreed to in the written contract with the MPHP. Failure to undergo such testing as required by the written contract with the MPHP shall constitute a violation of this Consent Agreement, which shall be immediately reported to the Board within 24 hours by the MPHP, and grounds for the immediate suspension of Dr. Mellon's Maine medical license pending hearing. The suspension shall become effective at the time that Dr. Mellon receives actual notice from the Board that a report of a failure to undergo testing has been made. Actual notice can be provided by telephone, in person, in

² The MPHP contract may include a condition that Dr. Mellon submit to different types of testing.

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)
Kevin M. Kendall, M.D.) CONSENT AGREEMENT FOR DISCIPLINE
Complaint No. CR12-162) AND PROBATIONARY LICENSURE

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against the license to practice medicine in the State of Maine held by Kevin M. Kendall, M.D. The parties to the Consent Agreement are: Kevin M. Kendall, M.D. ("Dr. Kendall"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S.A. § 8003(5)(B) and 32 M.R.S.A. § 3282-A.

STATEMENT OF FACTS

1. Pursuant to Title 32 Chapter 48 the Legislature endowed the Board with the power and duty to regulate the practice of physicians and physician assistants licensed by the Board, including setting standards of practice and investigating complaints. Pursuant to 10 M.R.S. § 8008 the Legislature provided that the sole purpose of the Board is to “protect the public health and welfare” and that “other goals or objectives may not supersede this purpose.”

2. The Board first issued Dr. Kendall a license to practice medicine in Maine on August 14, 1997. Dr. Kendall specializes in Emergency Medicine. On September 30, 1998, Dr. Kendall entered into a consent agreement with the Board and the Office of Attorney General regarding his addiction to Stadol, a synthetically derived opioid agonist-antagonist analgesic, and his actions in illegally obtaining and using it. The consent agreement required Dr. Kendall to abstain from the use of all prohibited substances, continuing counseling, and undergo monitoring. On August 27, 1998, Dr. Kendall submitted a urine sample that was positive for

writing, by another means or any combination of the above-referenced means.

(iii) Immediate Report of Positive Test Results. Any test result which indicates any level of a prohibited substance shall be immediately reported by Dr. Mellon and the MPHP to the Board in writing within 24 hours after Dr. Mellon and the MPHP receive notice of the positive test. Dr. Mellon understands that MPHP has a separate duty to report such a positive to the Board pursuant to existing protocols. By way of clarification, immediate reports will not be required if the tests show a positive result for a mood or mind altering drug that is known to the Board and MPHP to be a drug prescribed by Dr. Mellon's treatment provider for a medical condition and the levels appear consistent with the quantity and dosage prescribed.

(iv) Retention of Reports. During the term of this Consent Agreement, all original laboratory data and test reports shall be retained by the MPHP until instructed otherwise by the Board.

(v) Rebuttable Presumption and Admission into Evidence of Test Results. It is agreed and understood that a test evidencing the presence of any Prohibited Substance, shall raise a rebuttable presumption that such substance was in fact used by Dr. Mellon. Such a positive test result shall alone, including but not limited to any test result showing the presence of ethyl glucuronide, ethyl sulfate, or phosphatidyl ethanol, be sufficient to prove the use of the Prohibited Substance by Dr. Mellon. Dr. Mellon further agrees that the result of the test shall be admitted into evidence in any proceeding regarding her Maine medical license, whether before the Board or before a Court of competent jurisdiction.

(vi) Accidental Ingestion/Exposure Not a Defense. Dr. Mellon is hereby advised and agrees that the ingestion of poppy seeds, mouthwash and over the counter cough or cold medicines or remedies has from time to time been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, Dr. Mellon agrees to refrain from ingesting poppy seeds in any food substances, mouthwash and over the counter cough or cold medicines or remedies as a condition of this Consent Agreement. In the event that Dr. Mellon has a positive screen for morphine, opiates and/or alcohol, Dr. Mellon agrees that the ingestion of poppy seeds and/or mouthwash and/or over the counter cough or cold medicines shall not constitute a defense to such a positive screen. In addition, Dr. Mellon is hereby advised that the use of alcohol-based hand sanitizers has from time to time been raised as a defense to a positive screen result for alcohol. For that reason, Dr. Mellon agrees to refrain

from using alcohol-based hand sanitizers as a condition of this Consent Agreement, and further agrees that in the event of a positive screen for alcohol that the use of an alcohol-based hand sanitizer shall not constitute a defense to such a positive screen.

(vii) Immediate, Indefinite, Automatic Suspension for Positive Test. If any urine or blood test is positive (i.e., in any manner evidences any use of any Prohibited Substance -- including a positive result for the presence of ethyl glucuronide, ethyl sulfate, or phosphatidyl ethanol, then the result shall be the immediate, indefinite, automatic suspension of Dr. Mellon's Maine medical license, which shall continue until the Board holds a hearing on the matter, unless the Board, or the Board Executive Secretary and the Board's assigned Assistant Attorney General, earlier determine that the report is without merit. The suspension shall become effective at the time that Dr. Mellon receives actual notice from the Board that a report of violation(s) has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means.

(viii) Board Hearing to Determine if Dr. Mellon Used Any Prohibited Substance. After receiving a positive report evidencing use by Dr. Mellon of any Prohibited Substance, the Board shall investigate the situation, including demanding a response from Dr. Mellon. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Dr. Mellon and the Board agree to hold the hearing later) and it shall be held pursuant to the Maine Administrative Procedure Act.

(ix) Release. Dr. Mellon agrees that by executing this Consent Agreement, he waives any and all objections to the Board, Board staff, and the Board's assigned Assistant Attorney General having direct contact with the MPHP, including:

- (a) communicating directly with the MPHP regarding her compliance with that program;
- (b) requesting and obtaining copies of any and all documentation regarding her participation in the MPHP, including any and all medical records, evaluations, and reports of monitors and treatment providers;
- (c) physically inspecting the MPHP files regarding Dr. Mellon's compliance with the MPHP contract.

c. Mental Health Counseling and Therapy. Prior to returning to the active practice of medicine, Dr. Mellon shall submit for Board approval the name of a licensed mental health care provider with whom Dr. Mellon shall engage in treatment and psychotherapy. The Board shall retain the sole discretion, without hearing, to grant or deny approval of the primary care physician/medical provider proposed by Dr. Mellon. Dr. Mellon acknowledges that any decision by the Board concerning this issue is not appealable.

d. Waiver of Confidentiality and Release of Records. Dr. Mellon agrees and understands that for the duration of this Consent Agreement the Board and the Department of Attorney General shall have complete access to her present and future personal medical, psychotherapy and counseling records, including: records regarding chemical dependency; recording regarding mental health issues; and to all otherwise confidential data pertaining to treatment or monitoring of Dr. Mellon for substance abuse and/or mental health issues either within or outside of the MPHP. Dr. Mellon waives any privileges concerning such information, reports, or records, and agrees to execute any and all releases necessary to permit the Board or the Department of Attorney General access to such information. All releases must, in addition to waiving any relevant State law privileges or immunities, provide the Board and the Department of Attorney General with access to all material covered by 42 C.F.R., Part 2. In the event that the releases are not sufficient to obtain access to any information which the Board considers relevant, Dr. Mellon agrees to personally obtain such information and furnish it to the Board, to the extent permitted by law.

e. Professional Management. Dr. Mellon agrees to comply with the following conditions regarding her active practice of medicine:

i. Board-Approved Physician Monitor. Prior to her return to the active practice of medicine, Dr. Mellon must have a Board-approved practice monitor who shall monitor her medical practice. In complying with this requirement, Dr. Mellon shall submit to the Board for its approval the names of a proposed primary practice monitor and a secondary practice monitor, whom the Board has the sole discretion to approve or deny. The monitoring physician(s) must be in direct contact with Dr. Mellon and observe her within her medical practice at least three (3) times a week, and inform the Board if Dr. Mellon demonstrates any issues with regard to isolation, inappropriate boundaries or decision-making, ability to concentrate, absenteeism, substance abuse, incompetence, unprofessionalism or any other concerns. The monitoring physician(s) shall report such information to the Board by telephone and in writing within 24 hours or as soon thereafter as possible. In addition, Dr. Mellon and her monitoring physician(s) shall engage in a case discussion regarding each patient consult within 48 hours of the date on which the patient is seen by Dr. Mellon. Dr. Mellon understands that the monitoring physician(s) will be (an) agent(s) of the Board pursuant to Title 24 M.R.S. § 2511. Dr. Mellon shall permit

the monitoring physician(s) full access to her medical practice, including but not limited to all patient information. The Board-approved monitor(s) shall provide the Board with reports regarding Dr. Mellon's medical practice every calendar month following the execution of this Consent Agreement. Dr. Mellon shall not actively practice medicine until the Board has approved a physician monitor(s) pursuant to this provision. After one (1) year of successful medical practice under this monitoring, Dr. Mellon may request that the Board amend or delete this condition of this Consent Agreement. The Board has the sole discretion to grant or deny a request to amend or delete this condition.

ii. Maximum work hours per week. Dr. Mellon agrees that she will work no more than forty (40) hours per week, including "on call" hours. After one (1) year of successful medical practice under this monitoring, Dr. Mellon may request that the Board amend or delete this condition of this Consent Agreement. The Board has the sole discretion to grant or deny a request to amend or delete this condition.

iii. Obstetrical/Surgical Procedures. Dr. Mellon agrees that she shall ensure that she has immediate access to her board-approved primary or secondary practice monitor during all obstetrical or surgical procedures. After one (1) year of successful medical practice under this monitoring, Dr. Mellon may request that the Board amend or delete this condition of this Consent Agreement. The Board has the sole discretion to grant or deny a request to amend or delete this condition.

f. Automatic Conversion to Inactive Medical License. Dr. Mellon understands and agrees that in the event she does not return to the active practice of medicine pursuant to the terms and conditions of this Consent Agreement within six (6) months following its execution, the Board shall automatically and without hearing convert her active and conditioned Maine medical license to "inactive" status. Dr. Mellon understands and agrees that such action will not be subject to appeal and is based upon her absence from active medical practice since 2009. Dr. Mellon understands and agrees that should her Maine medical license be converted to "inactive" status pursuant to this provision, that she would bear the burden of demonstrating current clinical competence to the Board in order to have her license status changed back to "active" status in accordance with Board Rule, Chapter 1, Section 3.

g. Notification to Medical Employer(s)/Potential Medical Employers/Licensing Jurisdictions. Dr. Mellon shall provide a copy of this Consent Agreement to any medical employers or potential medical employers, and to any jurisdiction in which he holds or seeks a medical license.

h. Notification of Change of Address/Contact Information. Dr. Mellon shall within ten (10) days following the execution of this Consent Agreement provide the Board staff with an address, telephone number and e-mail address by which the Board staff may contact him regarding this Consent Agreement. In addition, Dr. Mellon shall provide the Board staff with any changes regarding her address, telephone number and e-mail address within ten (10) days of any such change(s).

7. Violation of any of the terms or conditions of this Consent Agreement by Dr.

Mellon shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

8. Pursuant to 10 M.R.S. § 8003(5)(B) the Board and Dr. Mellon agree that the Board has the authority to issue an order, following hearing, imposing discipline upon her Maine medical license, including but not limited to modifying or revoking her Maine medical license in the event that she fails to comply with any of the terms or conditions of this Consent Agreement.

9. Dr. Mellon waives her right to a hearing before the Board or any court regarding all facts, terms and conditions of this Consent Agreement. Dr. Mellon agrees that this Consent Agreement is a final order. This Consent Agreement is not appealable and is effective until modified or rescinded by the parties hereto. This Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General. Dr. Mellon may file a written request, together with any supporting documentation to modify the terms and conditions of this Consent Agreement. The Board retains the sole discretion to: (a) deny Dr. Mellon's request; (b) grant Dr. Mellon's request; and/or (c) grant Dr. Mellon's request in part as it deems appropriate to ensure the protection of the public. Any decision by the Board as a result of Dr. Mellon's request to modify this Consent Agreement need not be made pursuant to a hearing and is not appealable to any court.

10. The Board and the Attorney General may communicate and cooperate regarding Dr. Mellon's practice or any other matter relating to this Consent Agreement.

11. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

12. This Consent Agreement constitutes adverse action and may be reportable to the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).

13. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

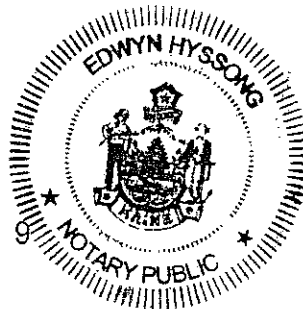
14. Dr. Mellon acknowledges by her signature hereto that she has read this Consent Agreement, that she has had an opportunity to consult with an attorney before executing this Consent Agreement, that she executed this Consent Agreement of her own free will and that she agrees to abide by all terms and conditions set forth herein.

I, CHRISTINE M. MELLON, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT FOR CONDITIONAL LICENSURE AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS CONSENT AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED:

1/15/13

Christine M. Mellon M.D.
CHRISTINE M. MELLON, M.D.



Edwyn Hyssong
EDWYN HYSSONG
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES
FEBRUARY 09, 2014

STATE OF Maine

County of Knox, S.S.



Personally appeared before me the above-named Christine M. Mellon, M.D., and swore to the truth of the foregoing based upon her own personal knowledge, or upon information and belief, and so far as upon information and belief, she believes it to be true.

DATED: 1/15/2013

Edwyn Hyssong
NOTARY PUBLIC/ATTORNEY
MY COMMISSION ENDS:

EDWYN HYSSONG
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES
FEBRUARY 09, 2014

DATED: 2/12/13

Gary R. Hatfield
GARY R. HATFIELD, Chairman
Maine Board of Licensure in Medicine

DATED: 2/12/13

Dennis E. Smith
DENNIS E. SMITH
Assistant Attorney General

Effective Date: 2/12/13

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
Florello S.E. Quianzon, M.D.)	AGREEMENT
Complaint No. CR12-179)	

This document is a Consent Agreement, effective when signed by all parties, regarding discipline imposed upon the license to practice as a physician in the State of Maine held by Florello Quianzon, M.D.. The parties to the Consent Agreement are: Florello S.E. Quianzon, M.D. ("Dr. Quianzon"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. The Board first issued Dr. Quianzon a license to practice as a physician in the State of Maine on July 12, 2007. At all times relevant to this complaint, Dr. Quianzon was licensed as a physician by the Board.

2. On September 11, 2012, the Board reviewed information regarding an investigation conducted by the Maine Department of Health and Human Services (DHHS) Licensing and Regulatory Services regarding the death of a patient who had been treated at a Maine hospital in February 2012. Following its review of this information, the Board voted to initiate a complaint against Dr. Quianzon's physician license pursuant to 32 M.R.S. § 3282-A alleging incompetence and unprofessional conduct based upon Dr. Quianzon's failure to reconcile the medications when he co-signed the patient's discharge summary, which discharge summary included an incorrect medication and excessive dosage that was subsequently administered to the patient. The Board docketed the complaint as CR12-179 and sent it to Dr. Quianzon for a written response.

3. On or about November 20, 2012, the Board received a response from Dr. Quianzon to complaint CR12-179. In his response, Dr. Quianzon indicated that the discharge summary, which included an incorrect medication and excessive dosage, for the patient was prepared by a physician assistant who was a "mid-level" provider at the hospital. According to Dr. Quianzon, mid-level providers are not permitted to discharge patients without physician review, including review of medications. To the best of Dr. Quianzon's knowledge, the physician assistant made a dictation error in the discharge summary by including an incorrect medication and excessive dosage. According to Dr. Quianzon, neither the physician assistant nor the discharge nurse caught the medication error in the discharge summary. Dr. Quianzon admitted that he also did not catch the medication error because he did not perform a medication reconciliation when he reviewed and signed the discharge summary. Dr. Quianzon acknowledged the risk of harm that can occur from any medication error, apologized for his role in this particular medication error, and outlined changes to the hospital's medication discharge policy to prevent future similar incidents.

4. On December 11, 2012, the Board reviewed complaint CR12-179, including Dr. Quianzon's response to the complaint and the relevant medical records and voted to offer Dr. Quianzon this Consent Agreement in order to resolve complaint CR12-179 without further proceedings.

5. This Consent Agreement has been negotiated by legal counsel for Dr. Quianzon and legal counsel for the Board in order to resolve complaint CR12-179 without further proceedings, including an adjudicatory hearing. Absent Dr. Quianzon's acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House

Station, Augusta, Maine 04333-0137 on or before February 11, 2013, the matter will be presented to the Board for further action.

6. By signing this Consent Agreement, Dr. Quianzon waives any and all objections to, and hereby consents to allow the legal counsel to the Board to present this Consent Agreement to the Board for possible ratification.

COVENANTS

In lieu of proceeding to an adjudicatory hearing in this matter, Dr. Quianzon and the Board agree to the following :

7. Dr. Quianzon admits that with regard to complaint CR12-179 the Board has sufficient evidence from which it could reasonably conclude that he co-signed a discharge summary for the patient that included an incorrect medication and dosage, which incorrect medication was subsequently administered to the patient in the incorrect and excessive dosage. Dr. Quianzon admits that such conduct constitutes unprofessional conduct and incompetence and grounds for discipline pursuant to 32 M.R.S. § 3286(2)(F) and (E).

8. As discipline for the conduct described in paragraphs 1-7 above pertaining to complaint CR12-179, Dr. Quianzon agrees to accept, and the Board agrees to issue, the following discipline:

a. A REPRIMAND. In this case, by failing to perform a medication reconciliation of the discharge summary prepared by a mid-level provider and then co-signing the discharge summary, Dr. Quianzon effectively prescribed a new drug to the patient in an excessive dosage (i.e. five times the appropriate level). This new medication at such a high dosage was contraindicated not only because of its potential harm to the patient due to the excessive dosage, but because of its potential to adversely interact with the medications that the

patient was already receiving. Although Dr. Quianzon acknowledged the importance of accurate discharge information, the Board urges him to ensure that this type of error does not occur again.

b. A MONETARY FINE of One Thousand Dollars and Zero Cents (\$1,000.00). Dr. Quianzon shall ensure that he pays the monetary penalty within thirty (30) days following the execution¹ of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Treasurer, State of Maine," and be remitted to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

9. Violation by Dr. Quianzon of any of the terms or conditions of this Consent Agreement shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

10. Pursuant to 10 M.R.S. § 8003(5) the Board and Dr. Quianzon agree that the Board has the authority to issue an order, following notice and hearing, imposing further discipline, including revocation or suspension of his license, in the event that he fails to comply with any of the terms or conditions of this Consent Agreement.

11. Dr. Quianzon waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Quianzon agrees that this Consent Agreement and Order is a final order resolving complaint CR12-179. This Consent Agreement is not appealable and is effective until modified or rescinded by agreement of all of the parties hereto.

12. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Quianzon or any other matter relating to this Consent Agreement.

¹ For the purposes of this Consent Agreement, "execution" shall mean the date on which the final signature is affixed to this Consent Agreement.

13. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

14. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB), the Healthcare Integrity and Protection Data Bank (HIPDB), and the Federation of State Medical Boards (FSMB).

15. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

16. The Board and Dr. Quianzon agree that no further agency or legal action will be initiated against him by the Board based upon the facts described herein except or unless he fails to comply with the terms and conditions of this Consent Agreement. The Board may however consider the conduct described above as evidence of a pattern of misconduct in the event that similar true allegations are brought against Dr. Quianzon in the future. The Board may also consider the fact that discipline was imposed by this Consent Agreement in determining appropriate discipline in any further complaints against Dr. Quianzon's Maine physician license.

17. Dr. Quianzon has been represented by Jennifer A.W. Rush, Esq., who has participated in the negotiation of this Consent Agreement on his behalf.

18. Dr. Quianzon acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

I, FLORELLO QUIANZON, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED:

29 Jan 2013

Florello S.E. Quianzon
FLORELLO S.E. QUIANZON, M.D.

STATE OF

Maine

Florello S.E. Quianzon, S.S.

Personally appeared before me the above-named Florello S.E. Quianzon, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED:

1/29/13

Kristi Quianzon
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS:

4/4/2015

DATED:

1/30/13

Jennifer A.W. Rush
JENNIFER A.W. RUSH, ESQ.
ATTORNEY FOR DR. QUIANZON

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED:

2/12/13

Gary R. Hatfield
GARY R. HATFIELD, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

2/12/13



DENNIS E. SMITH
Assistant Attorney General

Effective Date:

2/12/13

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
Kathleen C. Lees, P.A.-C)	AGREEMENT
Complaint No. CR12-178)	

This document is a Consent Agreement, effective when signed by all parties, regarding discipline imposed upon the license to practice as a physician assistant in the State of Maine held by Kathleen C. Lees, P.A.-C. The parties to the Consent Agreement are: Kathleen C. Lees, P.A.-C ("Ms. Lees"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. The Board first issued Ms. Lees a license to practice as a physician assistant in the State of Maine on May 12, 1999. At all times relevant to this complaint, Ms. Lees was licensed as a physician assistant by the Board.

2. On September 11, 2012, the Board reviewed information regarding an investigation conducted by the Maine Department of Health and Human Services (DHHS) Licensing and Regulatory Services regarding the death of a patient who had been treated at a Maine hospital in February 2012. Following its review of this information, the Board voted to initiate a complaint against Ms. Lees' physician assistant license pursuant to 32 M.R.S. § 3282-A alleging incompetence and unprofessional conduct based upon Ms. Lees dictating a discharge summary for the patient that included an incorrect medication and dosage, which incorrect medication was subsequently administered to the patient in the incorrect and excessive dosage. The Board docketed the complaint as CR12-178 and sent it to Ms. Lees for a written response.

3. On or about October 9, 2012, the Board received a response from Ms. Lees to complaint CR12-178. In her response, Ms. Lees admitted making the medication error during the process of completing the dictated discharge summary for the patient by inaccurately including a certain medication and dosage under the patient's list of "medications unchanged."

4. On December 11, 2012, the Board reviewed complaint CR12-178, including Ms. Lees' response to the complaint and the relevant medical records and voted to offer Ms. Lees this Consent Agreement in order to resolve complaint CR12-178 without further proceedings.

5. This Consent Agreement has been negotiated by Ms. Lees and legal counsel for the Board in order to resolve complaint CR12-178 without further proceedings, including an adjudicatory hearing. Absent Ms. Lees' acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before February 8, 2013, the matter will be presented to the Board for further action.

6. By signing this Consent Agreement, Ms. Lees waives any and all objections to, and hereby consents to allow the legal counsel to the Board to present this Consent Agreement to the Board for possible ratification.

COVENANTS

In lieu of proceeding to an adjudicatory hearing in this matter, Ms. Lees and the Board agree to the following :

7. Ms. Lees admits that with regard to complaint CR12-178 the Board has sufficient evidence from which it could reasonably conclude that she dictated a discharge summary for the patient that included an incorrect medication and dosage, which incorrect medication was subsequently administered to the patient in the incorrect and excessive dosage. Ms. Lees admits

that such conduct constitutes unprofessional conduct and incompetence and grounds for discipline pursuant to 32 M.R.S. § 3286(2)(F) and (E).

8. As discipline for the conduct described in paragraphs 1-7 above pertaining to complaint CR12-178, Ms. Lees agrees to accept, and the Board agrees to issue, the following discipline:

a. A REPRIMAND. In this case, by dictating the incorrect medication and dosage, Ms. Lees effectively prescribed a new drug to the patient in an excessive dosage (i.e. five times the appropriate level). This new medication at such a high dosage was contraindicated not only because of its potential harm to the patient due to the excessive dosage, but because of its potential to adversely interact with the medications that the patient was already receiving. Although Ms. Lees acknowledged the importance of accurate discharge information, the Board urges her to ensure that this type of error does not occur again.

b. A MONETARY FINE of One Thousand Dollars and Zero Cents (\$1,000.00). Ms. Lees shall ensure that she pays the monetary penalty within thirty (30) days following the execution¹ of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Treasurer, State of Maine," and be remitted to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

9. Violation by Ms. Lees of any of the terms or conditions of this Consent Agreement shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

¹ For the purposes of this Consent Agreement, "execution" shall mean the date on which the final signature is affixed to this Consent Agreement.

10. Pursuant to 10 M.R.S. § 8003(5) the Board and Ms. Lees agree that the Board has the authority to issue an order, following notice and hearing, imposing further discipline, including revocation or suspension of her license, in the event that she fails to comply with any of the terms or conditions of this Consent Agreement.

11. Ms. Lees waives her right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Ms. Lees agrees that this Consent Agreement and Order is a final order resolving complaint CR12-178. This Consent Agreement is not appealable and is effective until modified or rescinded by agreement of all of the parties hereto.

12. The Board and the Office of the Attorney General may communicate and cooperate regarding Ms. Lees or any other matter relating to this Consent Agreement.

13. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

14. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB), the Healthcare Integrity and Protection Data Bank (HIPDB), and the Federation of State Medical Boards (FSMB).

15. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

16. The Board and Ms. Lees agree that no further agency or legal action will be initiated against her by the Board based upon the facts described herein except or unless she fails to comply with the terms and conditions of this Consent Agreement. The Board may however consider the conduct described above as evidence of a pattern of misconduct in the event that

similar true allegations are brought against Ms. Lees in the future. The Board may also consider the fact that discipline was imposed by this Consent Agreement in determining appropriate discipline in any further complaints against Ms. Lees' Maine physician assistant license.

17. Ms. Lees acknowledges by her signature hereto that she has read this Consent Agreement, that she has had an opportunity to consult with an attorney before executing this Consent Agreement, that she executed this Consent Agreement of her own free will and that she agrees to abide by all terms and conditions set forth herein.

I, KATHLEEN C. LEES, P.A.-C, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 2-5-13

Kathleen C. Lees
KATHLEEN C. LEES, P.A.-C

STATE OF Maine
Kennebec County

Personally appeared before me the above-named Kathleen C. Lees, P.A.-C, and swore to the truth of the foregoing based upon her own personal knowledge, or upon information and belief, and so far as upon information and belief, she believes it to be true.

DATED: 2/5/13

Susan Rizzo
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: **SUSAN RIZZO**
Notary Public, Maine
My Commission Expires September 27, 2018


STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 2/12/13


GARY R. HATFIELD, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 2/12/13


DENNIS E. SMITH
Assistant Attorney General

Effective Date: 2/12/13

Morphine and Codeine, which resulted in the immediate suspension of Dr. Kendall's Maine medical license. Following a hearing on November 10, 1998, the Board reinstated Dr. Kendall's Maine medical license as it determined that it was more likely than not that the positive urine screen was caused by his ingestion of poppy seed bagels. In addition, the Board increased the frequency of Dr. Kendall's urine testing and prohibited him from consuming foods containing poppy seeds. Dr. Kendall successfully complied with the terms of the consent agreement, and on January 14, 2003, the Board released him from it.

3. On or about April 1, 2011, Dr. Kendall filed an on-line application to renew his Maine medical license. On that application, he disclosed his prior consent agreement with the Board as well as an alcohol dependency that resulted in his entering in-patient treatment in 2010. Dr. Kendall also disclosed that he had entered into the Maine Medical Professionals Health Program (MPHP) for assistance with and monitoring of his sobriety.¹ The MPHP is a "professional review committee" as defined by 24 M.R.S. § 2502(4-A):

"Professional review committee" means a committee of health care Practitioners formed by a professional society for the purpose of identifying and working with health professionals who are disabled or impaired by virtue of physical or mental infirmity or by the misuse of alcohol or drugs, as long as the committee operates pursuant to protocols approved by the various licensing boards that license the health professionals the committee serves.

24 M.R.S. § 2502(5) defines a "professional society" as "a state professional organization of physicians, surgeons or osteopathic physicians." The MPHP is, therefore, a professional review committee that is organized and operated by the Maine Medical Association, a private professional society of Maine physicians. The primary purpose of the MPHP is to operate a comprehensive monitoring and advocacy program offering limited confidentiality subject to the

¹ The Maine Medical Professionals Health Program also provided the Board with a letter indicating Dr. Kendall's enrollment with and active successful participation in that program.

limits of state law and the reporting requirements within the various written protocols the MPHP has with a number of professional licensing boards, including the Maine Board of Licensure in Medicine.

4. On May 10, 2011, the Board granted Dr. Kendall's application for the renewal of his Maine medical license without any conditions based in reliance upon Dr. Kendall's representations and the information provided by the MPHP.

5. On or about August 6, 2012, the Board received information from the MPHP that Dr. Kendall was removed from his Emergency Department shift at Bridgton Hospital² due to concerns that Dr. Kendall was not himself and appeared to be impaired when he reported for his shift at the emergency department. Following an evaluation of his impairment, Dr. Kendall was sent home from the hospital and was arrested for Operating Under the Influence due to erratic driving that resulted in his hitting a mail box. According to the MPHP, Dr. Kendall was placed on leave from the hospital, was being evaluated, and would not be allowed to return to work until he completed recommended treatment.

6. On August 17, 2012, the Board reviewed the foregoing information and voted to initiate a complaint against Dr. Kendall's Maine medical license pursuant to 32 M.R.S. § 3282-A. The Board docketed the complaint as CR12-162 and sent it to Dr. Kendall for a response.

7. On August 22, 2012, the parties entered into an Interim Consent Agreement that resulted in the voluntary suspension of Dr. Kendall's Maine medical license pending further action by the Board regarding complaint CR12-162.

8. On October 18, 2012, the Board received a written response from Dr. Kendall to complaint CR12-162. In his response, Dr. Kendall admitted that he had been suffering from the

² Bridgton Hospital is a member of the Central Maine Medical Family, an integrated healthcare delivery organization, and a subsidiary of Central Maine Medical Center.

disease of substance abuse for many years, and that he entered recovery in 1997 after prolonged treatment. Dr. Kendall stated however, that he initially went to meetings for substance abuse, but gradually stopped. In addition, Dr. Kendall did not maintain a sponsor or a safety net of recovery friends. According to Dr. Kendall, in 2006 his life and recovery began to fall apart due to personal family stressors and significant injuries he suffered in an accident. As a result, Dr. Kendall admitted that he relapsed to the use of alcohol in 2009. In February 2010, Dr. Kendall completed a brief in-patient treatment program, after which he entered into a contract with the MPHP. In addition, Dr. Kendall began psychotherapy. According to Dr. Kendall, he was able to abstain from using alcohol, but developed a dependence upon a sedative/hypnotic medication due to increasing difficulty sleeping. Dr. Kendall stated that during the summer of 2010, he self-prescribed a sedative/hypnotic. Although the MPHP did not report this conduct to the Board as a breach of his MPHP contract, Dr. Kendall stated that the MPHP required him to commence treatment with a physician. According to Dr. Kendall, in 2011 he was abusing the sedative/hypnotic medication because he craved sleep and was only able to sleep a few hours per night. Dr. Kendall's employer noted that he appeared very sleepy at the end of his shifts at the emergency department, for which he was given a written warning and counseled to complete a sleep study. In addition, Dr. Kendall's work shifts were reduced. According to Dr. Kendall, he continued to abuse the sedative/hypnotic medication by taking more than was prescribed in order to get to sleep. Dr. Kendall admitted that he began ordering the sedative/hypnotic medication over the internet for his personal use, which resulted in a second written warning at work for sleepiness/confusion. According to Dr. Kendall, his life over the ensuing year became unmanageable until the incident at Bridgton hospital on July 29, 2012, which resulted in his resignation from employment at Central Maine Medical Center (CMMC) in lieu of termination.

Following that incident, Dr. Kendall stated that he successfully completed residential treatment for substance abuse, and is in an active recovery program. In addition, Dr. Kendall expressed shame for his actions and acknowledged that if the Board allowed him to practice medicine under the terms of a consent agreement that it would likely be his last opportunity.

9. On October 19, 2012, the Board received information from Bridgton Hospital regarding the incident on July 29, 2012. According to that information, the emergency department nursing supervisor became aware that Dr. Kendall was having difficulty writing prescriptions (i.e. Dr. Kendall was writing the wrong names, wrong doses and wrong medications). In addition, nursing staff observed Dr. Kendall acting strangely and confused, and that he was unable to answer questions. According to that information, the nursing staff took Dr. Kendall to a hospital bed, admitted him as a patient, and contacted another physician to come to the hospital to complete Dr. Kendall's shift. According to that information, Dr. Kendall left the hospital at approximately 0715, and was prevented from taking some original patient charts with him. In addition, according to that information: on August 1, 2012, CMMC placed Dr. Kendall on unpaid administrative leave; on August 9, 2012, Dr. Kendall submitted a letter of resignation to CMMC; and on August 10, 2012, CMMC accepted Dr. Kendall's resignation in lieu of termination.

10. On or about October 19, 2012, the Board received a letter from the MPHP, which confirmed Dr. Kendall's enrollment in that program, including weekly urine screens, weekly therapy sessions, and a work monitor. The MPHP expressed support for Dr. Kendall's return to medical practice once he is released as "fit for duty" by his treating physician.

11. On November 16, 2012, the Board received executed releases from Dr. Kendall to obtain for review his substance abuse treatment and medical records. The Board subsequently used the releases and obtained copies of these records.

12. On January 8, 2013, the Board reviewed complaint CR12-162, including all investigative information obtained to date. Following its review, the Board voted to offer Dr. Kendall this Consent Agreement to resolve complaint CR12-162 without further proceedings.

13. This Consent Agreement has been negotiated by legal counsel for Dr. Kendall and legal counsel for the Board. Absent acceptance of this Consent Agreement by Dr. Kendall by signing it and dating it in front of a notary and returning it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before February 22, 2013, the Board may take any action permitted by law regarding complaint CR12-162.

14. By signing this Consent Agreement, Dr. Kendall waives, in his personal capacity and through legal counsel, any and all objections to, and hereby consents to the presentation of this proposed Consent Agreement to the Board for possible ratification. Dr. Kendall waives, in his personal capacity and through legal counsel, forever any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.

COVENANTS

15. Dr. Kendall admits that the foregoing facts constitute grounds to discipline his Maine medical license pursuant to the following subsections of 32 M.R.S.A. § 3282-A(2):

a. Subsection B: Habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients;

b. Subsection F: Unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior, including engaging in disruptive behavior, that has been established in the practice for which the licensee is licensed. For purposes of this paragraph, "disruptive behavior" means aberrant behavior that interferes with or is likely to interfere with the delivery of care; and

c. Subsection J: Prescribing narcotic or hypnotic or other drugs listed as controlled substances by the Drug Enforcement Administration for other than accepted therapeutic purposes.

16. Based upon Dr. Kendall's the admissions in paragraph 15 above as well as Dr. Kendall's efforts to maintain an active and effective recovery, the Board and Dr. Kendall agree to the following discipline of his Maine medical license. Until this Consent Agreement is modified or rescinded in writing by all of the parties hereto, Dr. Kendall's license to practice medicine in the State of Maine shall be probationary for the next five (5) years following the execution³ of this Consent Agreement and subject to the following conditions/restrictions:

a. Abstinence. Dr. Kendall shall totally refrain from the use or possession of any and all Prohibited Substances except drugs that are dispensed or prescribed to him by physicians approved by the Board or drugs that are dispensed or prescribed under circumstances that constitute a genuine medical or surgical emergency. "Prohibited Substances" as used throughout this Consent Agreement shall mean all controlled substances (i.e. benzodiazepines; sedatives; hypnotics or similar drugs; opiates), alcohol, and all mood and/or consciousness or mind-altering substances, whether illicit or not. In

³ For the purposes of this Consent Agreement, the term "execution" means the date on which the final signature is affixed to this Consent Agreement.

the event that the Board or Board staff receives a report of use or possession of any Prohibited Substance by Dr. Kendall, it shall result in the immediate suspension of his Maine medical license, which shall continue to be suspended until the Board holds a hearing on the matter.

b. Monitoring and Testing. Dr. Kendall shall submit to random "forensic level toxicological" screens by an individual or entity approved by the Board. In complying with this condition, Dr. Kendall shall submit to at least three (3) such random screens per calendar month for three (3) calendar months following the execution of this Consent Agreement.

- (i) Positive tests. Dr. Kendall shall ensure that any positive tests are reported to the Board in accordance with paragraph 16d(iii) below. In addition, any positive test shall result in the immediate suspension of Dr. Kendall's Maine medical license and be treated in accordance with paragraph 16d(v)-(viii) below.
- (ii) Negative tests. In the event that all of the tests of Dr. Kendall are negative during the three (3) calendar months, then he shall be continued to be randomly tested pursuant to a schedule established by the MPHP and approved by the Board pursuant to paragraph 16d below.

c. Substance Abuse Counseling. Dr. Kendall shall engage in and maintain a relationship with a qualified substance abuse counselor and/or treatment provider approved by the Board. Dr. Kendall shall ensure that he consults with his substance abuse counselor and/or treatment provider as frequently and for the duration recommended by his Board-approved counselor. To comply with this condition, Dr. Kendall shall, **within fourteen (14) days from the date he affixes his signature to this Consent Agreement**, submit to the Board for approval the name of his proposed qualified substance abuse counselor and/or treatment provider. Dr. Kendall shall execute any and all releases necessary for the Board and the Office of Attorney General to obtain complete access to his substance abuse counseling records. **Dr. Kendall shall ensure that his Board-approved substance abuse counselor and/or treatment provider provides the Board with written reports regarding Dr. Kendall every three (3) calendar months following the execution of this Consent Agreement.**

d. Enrollment and Successful Participation in the Maine Medical Professionals Health Program. Dr. Kendall shall enroll in and fully and successfully participate in the Maine Medical Professionals Health Program (MPHP) pursuant to a written contract approved by the Board. **No later than February 15, 2013**, Dr. Kendall shall provide the Board with documentation of his enrollment in and successful participation in the MPHP. Dr. Kendall understands and agrees that his written contract with the MPHP must be approved by the Board, and that any changes to his written contract with the MPHP must be approved by the Board. In complying with this provision, Dr. Kendall specifically and explicitly waives vis a vis the Board, the Board

staff, and the Department of Attorney General any claims of confidentiality regarding: (i) the written contract with the MPHP; (ii) any and all records pertaining to his compliance with his contract with the MPHP; and (iii) any records, including but not limited to substance abuse treatment records and laboratory reports, in the possession of the MPHP regarding Dr. Kendall. The MPHP contract must include a condition that Dr. Kendall submit to testing or monitoring for the presence of any Prohibited Substances as defined under this Consent Agreement. Dr. Kendall agrees to comply with the following conditions:

(i) Immediate, Indefinite, Automatic Suspension for Failure to Enroll in and Successfully Participate in the MPHP. Dr. Kendall's failure to enroll in and/or successfully participate in the MPHP shall result in the immediate, indefinite, automatic suspension of Dr. Kendall's Maine medical license, which shall continue until the Board holds a hearing on the matter. The suspension shall become effective at the time that Dr. Kendall receives actual notice from the Board that a report of violation(s) has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means.

(ii) To undergo such testing of the type (including but not limited to urine, blood, hair or fingernail analysis) as determined by the MPHP⁴ and as frequently and for the duration agreed to in the written contract with the MPHP. Failure to undergo such testing as required by the written contract with the MPHP shall constitute a violation of this Consent Agreement, which shall be immediately reported to the Board within 24 hours by the MPHP, and grounds for the immediate suspension of Dr. Kendall's Maine medical license pending hearing. The suspension shall become effective at the time that Dr. Kendall receives actual notice from the Board that a report of a failure to undergo testing has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means.

(iii) Immediate Report of Positive Test Results. Any test result which indicates any level of a prohibited substance shall be reported by Dr. Kendall immediately to the Board in writing within 24 hours after Dr. Kendall receives notice of the positive test. Dr. Kendall understands that MPHP has a separate duty to report under its contract with the Board. By way of clarification, immediate reports will not be required if the tests show a positive result for a mood or mind altering drug that is known to the Board and MPHP to be a drug prescribed by Dr. Kendall's treatment provider for a medical condition and the levels appear consistent with the quantity and dosage prescribed.

⁴ The MPHP contract may include a condition that Dr. Kendall submit to different types of testing.

(iv) Retention of Reports. During the term of this Consent Agreement, all original laboratory data and test reports shall be retained by the MPHP until instructed otherwise by the Board.

(v) Rebuttable Presumption and Admission into Evidence of Test Results. It is agreed and understood that a test evidencing the presence of any Prohibited Substance, shall raise a rebuttable presumption that such substance was in fact used by Dr. Kendall. Such a positive test result shall alone, including any test result showing the presence of ethyl glucuronide, ethyl sulfate, or phosphatidyl ethanol, be sufficient to prove the use of the Prohibited Substance by Dr. Kendall. Dr. Kendall further agrees that the result of the test shall be admitted into evidence in any proceeding regarding his Maine physician license, whether before the Board or before a Court of competent jurisdiction.

(vi) Accidental Ingestion/Exposure Not a Defense. Dr. Kendall is hereby advised that the ingestion of poppy seeds, mouthwash and over the counter cough or cold medicines or remedies has from time to time been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, Dr. Kendall agrees to refrain from ingesting poppy seeds in any food substances, mouthwash and over the counter cough or cold medicines or remedies during the period of probation. In the event that Dr. Kendall has a positive screen for morphine, opiates and/or alcohol, Dr. Kendall agrees that the ingestion of poppy seeds and/or mouthwash and/or over the counter cough or cold medicines shall not constitute a defense to such a positive screen. In addition, Dr. Kendall is hereby advised that the use of alcohol-based hand sanitizers has from time to time been raised as a defense to a positive screen result for alcohol. For that reason, Dr. Kendall agrees to refrain from using alcohol-based hand sanitizers during the period of probation and agrees that in the event of a positive screen for alcohol that the use of an alcohol-based hand sanitizer shall not constitute a defense to such a positive screen.

(vii) Immediate, Indefinite, Automatic Suspension for Positive Test. If any urine or blood test is positive (i.e., in any manner evidences any use of any Prohibited Substance – including a positive result for the presence of ethyl glucuronide, ethyl sulfate, or phosphatidyl ethanol), then the result shall be the immediate, indefinite, automatic suspension of Dr. Kendall's Maine medical license, which shall continue until the Board holds a hearing on the matter, unless the Board, or the Board Executive Secretary and the Board's assigned Assistant Attorney General, earlier determine that the report is without merit. The suspension shall become effective at the time that Dr. Kendall receives actual notice from the Board that a report of violation(s) has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means.

(viii) Board Hearing to Determine if Dr. Kendall Used Any Prohibited Substance. After receiving a positive report evidencing use by Dr. Kendall of any Prohibited Substance, the Board shall investigate the situation, including demanding a response from Dr. Kendall. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Dr. Kendall and the Board agree to hold the hearing later) and it shall be held pursuant to the Maine Administrative Procedure Act.

(ix) Releases. Dr. Kendall agrees to execute any and all releases necessary for the Board, Board staff, and the Board's assigned Assistant Attorney General to:

- (a) communicate directly with the Maine Medical Professionals Health Program regarding his compliance with that program; and
- (b) review and obtain copies of any and all documentation regarding his participation in the MPHP.
- (c) communicate directly with anyone who is involved with his care and treatment; and
- (d) review and obtain copies of any and all documentation regarding his medical care and treatment and treatment for substance abuse issues.

e. Notification to Employer(s)/Potential Employers/Licensing Jurisdictions. Dr. Kendall shall provide a copy of this Consent Agreement to any employer(s) or potential employer(s), and to any jurisdiction in which he holds or seeks a medical license.

f. Professional Management. Dr. Kendall agrees to comply with the following conditions regarding his practice of medicine:

- (i) Board-Approved Physician Monitor. Prior to his return to the active practice of medicine, Dr. Kendall must have a Board-approved practice monitor who shall monitor his medical practice pursuant to a plan approved by the Board. In complying with this requirement, Dr. Kendall shall submit to the Board for its approval the names of a proposed primary practice monitor and a secondary practice monitor, whom the Board has the sole discretion to approve or deny. The monitoring physician(s) must be in direct contact with Dr. Kendall (i.e. physically present) and observe him within his medical practice at least twelve (12) hours a week, and inform the Board if Dr. Kendall demonstrates any issues with regard to

isolation, inappropriate boundaries or decision-making, ability to concentrate, absenteeism, substance abuse, incompetence, unprofessionalism or any other concerns. The monitoring physician(s) shall report such information to the Board by telephone and in writing within 24 hours or as soon thereafter as possible. Dr. Kendall understands that the monitoring physician(s) will be (an) agent(s) of the Board pursuant to Title 24 M.R.S. § 2511. Dr. Kendall shall permit the monitoring physician(s) full access to his medical practice, including but not limited to all patient information. Dr. Kendall shall ensure that his Board-approved monitor(s) provide(s) the Board with reports regarding his medical practice every three (3) calendar months following the Board's approval of the practice monitor(s). Dr. Kendall shall not actively practice medicine until the Board has approved a physician monitor(s) pursuant to this provision. After six (6) months of successful medical practice under this monitoring, Dr. Kendall may request that the Board amend or delete this condition of this Consent Agreement. The Board has the sole discretion to grant or deny a request to amend or delete this condition. Any action by the Board regarding such a request does not require a hearing and is not subject to appeal or judicial review.

(iii) Maximum work hours per week. Dr. Kendall agrees that he will work no more than twenty-seven (27) hours per week and for no more than twelve (12) consecutive hours per shift, including "on call" hours. After six (6) months of successful medical practice under this condition, Dr. Kendall may request that the Board amend or delete this condition of this Consent Agreement. The Board has the sole discretion to grant or deny a request to amend or delete this condition. Any action by the Board regarding such a request does not require a hearing and is not subject to appeal or judicial review.

(iv) Day Shift Only. Dr. Kendall agrees that he will work shifts only during the day, and that he will not work any night shifts, which is defined as the period of time from 11:00 p.m. to 07:00 a.m. After six (6) months of successful medical practice under this condition, Dr. Kendall may request that the Board amend or delete this condition of this Consent Agreement. The Board has the sole discretion to grant or deny a request to amend or delete this condition. Any action by the Board regarding such a request does not require a hearing and is not subject to appeal or judicial review.

g. Waiver of Confidentiality and Release of Records. Dr. Kendall agrees and understands that the Board and the Department of Attorney General shall have complete access to his present and future personal medical and counseling records regarding chemical dependency and mental health issues and to all otherwise confidential data pertaining to treatment or monitoring of Dr. Kendall for substance abuse and mental health issues. Dr. Kendall waives any privileges concerning such information, reports, or

records, and agrees to execute any and all releases necessary to permit the Board or the Department of Attorney General access to such information. All releases must, in addition to waiving any relevant State law privileges or immunities, provide the Board and the Department of Attorney General with access to all material covered by 42 C.F.R., Part 2. In the event that the releases are not sufficient to obtain access to any information which the Board considers relevant, Dr. Kendall agrees to personally obtain such information and furnish it to the Board, to the extent permitted by law.

17. Violation of any of the terms or conditions of this Consent Agreement by Dr. Kendall shall constitute unprofessional conduct and grounds for additional discipline of his Maine medical license by the Board, including but not limited to possible fines, additional period(s) of suspension, and revocation. Dr. Kendall agrees that the Board has the authority pursuant to 32 M.R.S. § 3282-A and 10 M.R.S. § 8003(5) to suspend or revoke his Maine medical license.

18. Dr. Kendall has been represented by legal counsel, Michael A. Duddy, Esq. with respect to the terms of this Consent Agreement.

19. This Consent Agreement is not appealable, constitutes disciplinary action, is reportable to the National Practitioner Data Bank, the Federation of State Medical Boards, and other licensing jurisdictions, and is effective until modified or rescinded in writing by all of the parties hereto.

20. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

21. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

I, KEVIN M. KENDALL, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 2/11/13

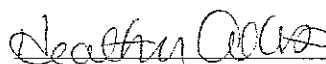

KEVIN M. KENDALL, M.D.

STATE OF Maine
Cumberland, S.S.


Personally appeared before me the above-named Kevin M. Kendall, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED: 02/11/13

HEATHER ADAMS
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES OCTOBER 29, 2016

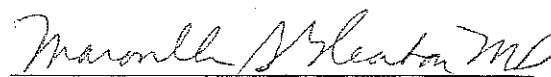

NOTARY PUBLIC
MY COMMISSION ENDS: 10/29/16

DATED: 2/12/2013



MICHAEL A. DUDDY, ESQ.
Attorney for Dr. Kendall

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 2/12/13


MAROULLA S. GLEATON, M.D.
Acting Chairman
STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 2/12/13


DENNIS E. SMITH
Assistant Attorney General

APPROVED
EFFECTIVE: 2/12/13

Refer to minutes of 11/13/2012

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:) FIRST AMENDMENT TO
Venkatram Nethala, M.D.) CONSENT AGREEMENT
) FOR CONDITIONAL LICENSURE

This document is a First Amendment to a Consent Agreement for Conditional Licensure effective March 16, 2011, regarding conditions imposed upon the license to practice medicine in the State of Maine held by Venkatram Nethala, M.D. The parties to this First Amendment of that Consent Agreement are: Venkatram Nethala, M.D. ("Dr. Nethala"), the State of Maine Board of Licensure in Medicine ("the Board"), and the Office of the Attorney General (the "Attorney General"). This First Amendment to the Consent Agreement is entered into pursuant to 32 M.R.S. § 3282-A and 10 M.R.S. § 8003(5).

BACKGROUND

1. On March 16, 2011, the parties entered into a Consent Agreement for Conditional Licensure, which issued Dr. Nethala a conditional license to practice medicine in the State of Maine.

2. In paragraph 8(d)(i) of the Consent Agreement, Dr. Nethala agreed to undergo substance abuse counseling "at least twice monthly."

3. On September 24, 2012, the Board received a written request from Dr. Nethala to reduce the substance abuse counseling to once per calendar quarter. In addition, the Board received correspondence from the Maine Medical Professionals Health Program (MPHP) and Dr. Nethala's substance abuse counselor, which confirmed Dr. Nethala's active participation in counseling and supported his request for a reduction

in therapy sessions.

4. On November 13, 2012, the Board reviewed all documentation related to Dr. Nethala's request to amend the Consent Agreement by reducing substance abuse counseling to once a calendar quarter. Following its review, the Board voted to grant the request and offer Dr. Nethala this amendment to the Consent Agreement.

AMENDMENT

5. Dr. Nethala, the Board, and the Office of Attorney General hereby agree to amend the Consent Agreement dated March 16, 2011, by amending the language of paragraph 8(d)(i) to read as follows:

Substance Abuse Treatment. Within thirty (30) days following the execution of this Consent Agreement, Dr. Nethala shall submit for Board approval the name of a licensed individual or agency in the treatment of substance abuse with whom Dr. Nethala shall consult and counsel for the purpose of working on all issues pertaining to his substance abuse issues, including Dr. Nethala's compliance with this Consent Agreement, which consultations shall occur at least once per calendar quarter following the execution of the First Amendment to the Consent Agreement for Conditional Licensure.

6. Dr. Nethala acknowledges by his signature hereto that all other terms and conditions of the Consent Agreement dated March 16, 2011, as amended, remain in full force and effect.

7. Dr. Nethala acknowledges by his signature hereto that he has read this First Amendment to the Consent Agreement for Conditional Licensure, that he has had an opportunity to consult with an attorney before executing this First Amendment, that he executed this First Amendment of his own free will and that he agrees to abide by all terms and conditions set forth herein.

I, VENKATRAM NETHALA, M.D., HAVE READ AND UNDERSTAND THE FOREGOING FIRST AMENDMENT TO THE CONSENT AGREEMENT FOR CONDITIONAL LICENSURE AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING I WAIVE CERTAIN RIGHTS INCLUDING THE RIGHT TO FURTHER HEARINGS REGARDING THIS AMENDMENT. I ALSO WAIVE THE RIGHT TO APPEAL TO THE COURT REGARDING THIS AMENDMENT. KNOWING THIS, I SIGN IT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS FIRST AMENDMENT, TOGETHER WITH THE CONSENT AGREEMENT FOR CONDITIONAL LICENSURE, CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN, OR OTHERWISE. I ACKNOWLEDGE THAT I HAVE HAD THE OPPORTUNITY TO DISCUSS THIS FIRST AMENDMENT WITH LEGAL COUNSEL PRIOR TO SIGNING IT.

Dated: 1-26-13


VENKATRAM NETHALA, M.D.

^{NH}
STATE OF ~~MAINE~~
Belknap, SS.

Before me this 26th day of January, 2013, personally appeared Venkatram Nethala, M.D., who after first being duly sworn, signed the foregoing First Amendment to the Consent Agreement for Conditional Licensure in my presence or affirmed that the signature above is his own.



Notary Public/Attorney at Law

My commission expires:

MY COMMISSION EXPIRES
NOVEMBER 30, 2016

STATE OF ~~MAINE~~ New Hampshire
BOARD OF LICENSURE IN MEDICINE

DATED: 2/12/13


GARY R. HATFIELD, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

2/12/13



DENNIS E. SMITH

Assistant Attorney General

Effective Date:

2/12/13